

briefcase



Victoria
Legal Aid

Lawyers And
Legal Services

Inside this edition:

August 2010 Volume 27 www.legalaid.vic.gov.au

02 | Law reform

03 | Defenders take on
toughest cases

04 | New Legal Aid magistrates



Fresh hope for children at risk

A less adversarial court culture, leading to better results for at-risk children, is at the heart of collaborative work by the Children's Court of Victoria, the Department of Human Services (DHS) and Victoria Legal Aid (VLA).

The three agencies are working closely together in implementing the recommendations of the Child Protection Proceedings Taskforce.

The taskforce stemmed from last year's Ombudsman's report into the Department of Human Services' child protection program.

Amongst the recommendations is the creation and implementation of new child protection resolution conferences, known as new model conferences.

Implementing these conferences began in July with the first cases due to be heard from mid-August until December 2010. The first 50 child protection cases to make use of the new model conferences will be drawn exclusively from the Footscray DHS office. These cases, which would normally have been held at the Children's Court Melbourne, will be conducted at VLA's Roundtable Dispute Management centre in La Trobe Street, Melbourne.

The new model conferences will later be rolled out to all Children's Court matters in the Melbourne metropolitan area after December 2010.

VLA has developed a new fees structure for lawyers working in this field. The new fees include payment for preparation and attendance at the new model conferences.

The Children's Court has released guidelines entitled: *Dispute Resolution Conferences Guidelines for New Model Conferences*, effective from 1 July 2010. These guidelines are essential reading for practitioners and are available from the Children's Court.

VLA has seconded a senior lawyer to work with DHS on a number of areas including a memorandum of understanding and disclosure documentation. VLA has also seconded a senior case manager to work with the Children's Court in developing intake and screening procedures for the court.

In the lead up to the changes VLA hosted a forum in April with key stakeholders to explain the taskforce's recommendations and to discuss the significant challenges and changes ahead.

Call for emergency legal services

Legal assistance needs to be part of emergency plans and community recovery when natural disasters such as Black Saturday occur, says a new report.

Despite the plethora of legal issues that arise from a state of emergency, legal services remain absent from emergency management policies and plans at both the state and national level.

In the immediate aftermath of Black Saturday people required assistance with identification, wills, estates, housing and tenancy, insurance, property law and family issues.

The call for recognition of the need for emergency legal services at such times is made in the Bushfire Legal Help report, released in mid-June.

The report also calls for the legal and human rights of individuals at inquiries such as the Bushfire Royal Commission to be strengthened and protected.

Bushfire Legal Help, a partnership of six Victorian legal agencies, was formed within days of Black Saturday. It responded to over 2165 enquiries and provided ongoing legal assistance and resources to more than 800 Victorians affected by the bushfires.

The six agencies are the Federation of Community Legal Centres, the Public Interest Law Clearing House, the Victorian Bar, the Law Institute of Victoria, the Victoria Law Foundation and Victoria Legal Aid.

The 40 page report describes the contributions of each of the agencies, including personal stories of the legal issues and harrowing experiences faced by victims of Black Saturday.

Continued on page 02

Continued on page 02



Continued from page 01

Fresh hope for children at risk

DHS has involved VLA senior staff in a series of consultative meetings with regional staff.

In June VLA ran a series of information sessions on the 'Signs of Safety' model currently running in Western Australia. The Western Australian experience was helpful in informing the development of the Victorian

model, but the new model conferences have been tailored to fit the needs of Victorian clients and agencies.

VLA is conducting specialised training during late July and early August for the legal profession and DHS staff in the running of the new model conferences.

For further information about the new model conferences and other aspects of the work VLA is undertaking in this area contact Domenico Calabrò by writing to domenico.calabro@vla.vic.gov.au

Law reform

Victoria Legal Aid's Justice and Law Reform program regularly contributes comments and/or papers on law reform matters.

Changes to immigration processing

VLA, New South Wales Legal Aid and Northern Territory Legal Aid have prepared a joint response to the Federal Government's suspension of new asylum applications from Sri Lankan and Afghan nationals.

The response strongly endorses a human rights approach that upholds international standards and adherence to the convention on the elimination of all forms of racial discrimination.

The submission notes that suspension of processing new asylum applications will result in extending mandatory detention for members of these two nationality groups and will prevent refugees of these nationalities from exercising their right to seek protection from Australia.

Review of guardianship laws

VLA's major recommendations into the Victorian Law Reform Commission review of guardianship and administration laws centre on:

- the Guardianship and Administration Act making it explicit that the onus of proving that a guardian or administrator is required, or continues to be required, rests with the applicant
- access to legal advice and representation for people subject to a guardianship and administration application
- functional tests to prove capacity, and greater involvement of a wider range of professional staff and experts who are involved in the day to day lives of people with a disability
- protection against abuse.

Females and drug-related crimes

VLA made the following points in its response to the State Government's inquiry into the impact of drug-related offending on female prisoner numbers.

VLA believes there is a strong connection between drug-related offending and female prisoner numbers and recommends further research into this relationship, including data collection and record keeping.



VLA believes that addressing the underlying causal factors that influence drug-related offending will reduce the numbers of women entering custody or reoffending. These causal factors are varied and may include homelessness, lack of education, poverty, unemployment and family violence.

VLA has outlined specific strategies that may be considered, including more support for women exiting prison, more focus on counselling services and better funding for rehabilitative services.

VLA believes that incarcerating women for drug offences may in itself exacerbate the problems experienced by women and may lead to reoffending. Options other than incarceration should be considered.

Strategies in the criminal justice system such as problem solving courts, specialist lists and court support services allow for targeted support for certain groups who may be overrepresented in the justice system. VLA supports innovative responses to offending that address the reasons for offending as well as the offending itself.

Continued from page 01

Call for emergency legal services

Bushfire Legal Help lawyers at the Kinglake relief centre, for example, were able to help a young couple whose home had been destroyed. 'The lawyers helped us with all our paperwork – right from getting a birth certificate for our little baby, who was only four days old, to sorting out issues with our landlord. The lawyers worked around our needs and even called us out of hours. We are so grateful.'

The Bushfire Legal Help report concludes with three broad recommendations:

- that emergency health, housing, counselling and legal services be co-located in times of a natural disaster recovery
- that the legal assistance sector inform governments and planning bodies of the longer-term legal problems created by major emergencies

- that legal assistance be recognised as a vital component of natural disaster emergency services.

The report is online at www.bushfirelegalthelp.org.au It was also the basis of an international conference paper given in Cambridge, England in July by VLA board member Mary Anne Noone.

For further information contact Rachna Muddagouni, rachnam@vla.vic.gov.au





New Lawyers PROGRAM

BE AN ADVOCATE
STAND FOR SOMETHING

WORK WITH DIVERSE CLIENTS
PRACTISE IN MANY LEGAL FIELDS
LEARN FROM EXPERT LAWYERS
PROMOTE SOCIAL JUSTICE, PROTECT HUMAN RIGHTS

Victoria Legal Aid is revamping its intake of entry-level lawyers as it fine-tunes its overall recruitment policies.

From September 2010 VLA will for the first time run the New Lawyers program for first and second year lawyers. The new two year program replaces the previous graduate articulated clerk/traineeship program, which averaged six trainees per year.

It is intended that the pool of 13 new lawyers will go towards filling VLA's annual turnover of approximately 30 entry-level solicitors. (VLA's staff of 625 includes 275 lawyers of various experience and seniority.)

The new lawyers will be offered a comprehensive two-year program, with the expectation that most will move into ongoing positions at VLA. The program includes working across VLA's three jurisdictions

(criminal law, family law and civil law) and in some of its fifteen statewide offices.

'Unlike large commercial firms of a comparable size to VLA, our legal work involves junior lawyers working directly with clients to solve their legal matters. The New Lawyers program should attract any aspiring or current lawyer who wants to work with people who are amongst the most marginalised in Victoria,' said VLA's acting director of Legal Practice Saul Holt.

Mr Holt noted that the increase does not mean VLA is bolstering its staff levels.

'VLA is simply moving away from ad hoc recruiting when vacancies arise due to resignation or transfer. Instead, we want to recruit our new lawyers as a group, train them carefully and expose them to all facets of legal aid practice.'

The annual turnover of 30 entry-level employees, though not uncommon for an organisation as large as VLA, sees many VLA managing lawyers caught 'in a seemingly permanent cycle of recruitment,' said Mr Holt.

'This new model will mean that VLA managing lawyers will be able to concentrate more on legal work and clients and much less on recruitment.'

The inaugural group of 13 new first and second-year lawyers were selected from a field of 270 applicants. They will:

- receive hands-on experience during rotating placements
- undertake appearance work in courts and tribunals
- work closely with expert lawyers across VLA's practice divisions
- interact with clients on a daily basis.

'I believe the program will give serious return for new lawyers, for VLA and ultimately for VLA's many clients,' said Mr Holt.

To enquire about the program, contact Leah Borsboom by writing to nlp@vla.vic.gov.au or visit www.legalaid.vic.gov.au/newlawyers.htm

Defenders take on toughest cases

Does listening on your car stereo to a loud rap CD with very explicit lyrics amount to offensive behaviour?

Do the laws providing for the detention of serious sex offenders in prison, without charge, breach the Charter of Human Rights?

These are some of the many questions that VLA's Public Defenders Unit (PDU) deals with on a daily basis.

The PDU is made up of 11 very experienced advocates.

'We have advocates who specialise in the Court of Appeal, excellent trial advocates with great skills in cross-examination and persuading a jury and advocates with creative and innovative ideas willing to run exciting test cases,' says Helen Spowart, a senior public defender and the co-ordinator of the Unit.

The PDU appears in some of the most difficult and complex matters VLA deals with, including murder, conspiracy, sex offences, arson and important test cases on issues such as human rights.

It also provides VLA staff and clients with legal advice and representation in appeals from Magistrates' Courts to the County Court, as well as appeals from the superior courts to the Court of Appeal and High Court. The PDU's appeals expert John McLoughlin has created a database of thousands of appeals and regularly fields enquiries from fellow VLA lawyers as well as private barristers, SCs and QCs.

Three members of the Unit are experienced instructors with the Australian Advocacy Institute and have trained VLA lawyers. PDU members regularly present papers and

workshops as part of VLA's professional legal education program.

Also, the PDU works on leading and developing VLA policy in areas such as law reform, representing VLA to external stakeholders and working for change in laws and procedures that cause injustice.

VLA's seven senior public defenders are: Helen Spowart, John McLoughlin, Marcus Dempsey, David McKenzie, Mark Regan, Saul Holt (director of Criminal Law Services) and Jarrod Williams. The three public defenders are Selena McCrickard, David Gibson and Danielle La Movie. The associate public defender is Deirdre McCann.

The public defenders clerk position is shared by Kylie Bamford and Coleen Ritchie. To contact the PDU ring (03) 9269 0221 or email public_defenders_clerk@vla.vic.gov.au

New Legal Aid magistrates

Two Legal Aid lawyers were appointed to the Magistrates' Court of Victoria in late June, adding to the growing list of magistrates who have worked at VLA.

In announcing the appointments of Michael Wighton and Ros Porter, Deputy Premier and Attorney-General Rob Hulls said they would bring valuable experience to the Court, including working with disadvantaged Victorians.



Magistrates Michael Wighton and Ros Porter at a VLA farewell function in late June.

Michael Wighton and Ros Porter each worked at VLA for 20 years, both joining in 1990. Mr Wighton was instrumental in establishing four of VLA's 14 regional offices and Ms Porter became an expert on juvenile justice and child protection.

'It's an absolute honour to be appointed a magistrate,' said Ros Porter. 'The appointments of VLA lawyers over the years are a great accolade for VLA, for the work we do for vulnerable clients and for our very real interest in justice and the legal system.'

'The appointment is daunting but it's also exciting,' said Michael Wighton. 'From practitioner to magistrate is a big step.'

VLA's acting managing director Tony Matthews said the magistrate appointments 'recognise the skill and judgment displayed by Michael Wighton and Ros Porter over their many years as dedicated senior practitioners at Victoria Legal Aid.'

A third new magistrate, Peter Dotchin, worked with VLA's predecessor, the Legal Aid Commission of Victoria.

At least 19 ex-VLA lawyers, mostly women, have been appointed magistrates.

Special needs the focus of Insight event

Victoria Legal Aid presented the first of its Insight series on Thursday 29 April at the Lionel Murphy Centre, in Queen St, Melbourne.

Concentrating on the theme of helping people with an intellectual disability, the event featured an opening address by Graeme Innes AM, Disability Discrimination Commissioner and Race Discrimination Commissioner, Australian Human Rights Commission, and a closing address by The Honourable Bill Shorten, Parliamentary Secretary for Disabilities and Children's Services.

The invited audience of 60 people included members of several government and non-government agencies, plus VLA staff.

The talks by the guest speakers were interspersed by accounts from VLA lawyers about the rewards and challenges of working with clients who have intellectual disabilities. These snapshots of VLA's services and of its 'one-practice model' were presented by Joel Townsend and Stuart Webb, senior lawyers of VLA's Human Rights & Civil Law Service; Vicky Kordouli, senior duty lawyer, family law and Ros Porter, formerly of VLA's Youth Legal Service; and Emma Aldersea, senior criminal lawyer and Carrie O'Shea, Assessment and Referral Court co-ordinator.

The final session of the inaugural Insight event was a panel discussion featuring Kristen Hilton, director, Civil Law, Access and Equity Program at VLA; Bill Shorten, Parliamentary Secretary for Disabilities and Children's Services; Cath Smith, CEO of the Victorian Council of Social Services; and Arthur Rogers, executive director, Disability Services, Department of Human Services.

The next Insight event, to be held in late September or early October, will focus on alternative dispute resolution and early intervention/prevention. If you have an interest in this topic and would like to be kept informed contact Domenico Calabrò by writing to domenico.calabro@vla.vic.gov.au

New publications

In 2009 -2010 Victoria Legal Aid distributed 512,744 copies of brochures, booklets and fact sheets for the general public. This was 55, 500 more than 2008 - 2009.

The work of VLA's community legal education team ties in with elements of the State Attorney-General's Justice Statement and the Commonwealth Attorney-General's Strategic Framework for Access to Justice in the Federal Civil Justice System. Both documents stress the importance of access to legal information.

Amongst the latest VLA publications are updated editions of:

- Going to the Magistrates' Court
- Your day in court
- Police powers: Your rights in Victoria
- Refugees and protection visas

These publications, and many others, can be downloaded or ordered at www.legalaid.vic.gov.au/publications.htm or by ringing (03) 9269 0223.



briefcase is a newsletter of Victoria Legal Aid
Editor: Vin Maskell
e: editor@vla.vic.gov.au
www.legalaid.vic.gov.au

Victoria Legal Aid Legal Information Service
A free information and referral service operates
Monday to Friday, 8.45 am to 5.15 pm
Tel: 9269 0120 or 1800 677 402 (country callers)

Victoria Legal Aid
350 Queen St
Melbourne VIC 3000
ISSN 1837 7157